

ANNUAL REPORT OF THE
FEDERAL DEPOSIT INSURANCE CORPORATION

ON ITS IMPLEMENTATION OF THE
FREEDOM OF INFORMATION ACT (5 U.S.C. § 552)

From January 1, 1997 through September 30, 1997

1. Total number of initial determinations not to comply with a request for records made under subsection 552(a):

Thirty-six (36) complete denials
Two hundred forty-nine (249) partial denials

Note: The FDIC received 796 requests for records. This figure includes only requests for records made pursuant to the section of the FDIC's regulations (§ 309.5) implementing subparagraph (a)(3) of the FOIA. Requests for information available under § 309.4 of the FDIC's regulations, which implements subparagraph (a)(2) of the FOIA and makes certain other material publicly available, are not included.

2. Authority relied upon for each such determination:

- (a) Exemptions in 552(b):

<u>Exemptions invoked</u>	<u>Number of times invoked</u>
No. 2	6
No. 4	161
No. 5	100
No. 6	180
No. 7	21
No. 8	47

Note: The total of the number of times particular exemptions were invoked exceeds the total number of initial determinations not to comply with a request for records since, in some cases, more than one exemption may have been relied upon as authority for denying a request.

- (b) Statute(s) invoked pursuant to Exemption No. 3:

<u>Statutory citation</u>	<u>Number of times invoked</u>
None (0)	None (0)

(c) Other Authority:

<u>Reason</u>	<u>Number of times invoked</u>
Nonpossession of records	187
Requester referred to another agency for records	45
Records not reasonably described	3
Requester failed to pursue request after being advised of costs	97

Note: Determinations not to comply with requests for reasons stated above were not, in every case, treated as denials and, consequently, are not reflected in the total number of denials listed in 1. In some instances, these reasons were cited as the sole basis of a determination not to comply with a request and in other instances were cited in addition to the exemptions listed in 2(a). Furthermore, although the Courts have ruled that an agency's failure to locate records in response to a FOIA request constitutes an adverse determination requiring that the requester be advised of appeal rights, the agency does not assert a statutory exemption to support a decision not to comply with the request. Therefore the number in the above category entitled, "Nonpossession of records" is also not reflected in the total number of denials listed in 1.

3. List names and titles or positions of each person who is responsible for the initial denial of records requested and number of instances of participation of each:

<u>Names</u>	<u>Titles</u>	<u>Number of instances of participation</u>
Valerie J. Best	Ass't Executive Secretary	30
Martin Blumenthal	Counsel	1
William Butterfield	Attorney	5
Nicholas J. Burgess	Senior FOIA Specialist	3
Arlene S. Davis	FOIA Specialist	32
Mary Lou Elosser	Senior FOIA Specialist	28
Fredrick L. Fisch	Senior Attorney	5
Carolyn D. Poindexter	Senior FOIA Specialist	20
Rita Ross	Counsel	5
Dianne M. Salva	Senior Attorney (FOIA)	93
Regina C. Somerville	FOIA Specialist	24
Jerry Sussman	Senior FOIA Specialist	8
Richard A. White	Attorney	21

4. Total number of intra-agency appeals from adverse initial decisions made pursuant to subsection (a)(6):

Ninety (90)

- (a) Number of appeals in which, upon review, request for information was granted in full:

Twelve (12)

- (b) Number of appeals in which, upon review, request for information was denied in full:

Thirty-two (32)

- (c) Number of appeals in which, upon review, request was denied in part:

Twenty (20)

Note: Ten appeals were withdrawn and sixteen appeals are pending.

5. Specify authority relied upon for total or partial denials on appeal, using the same format as in 2(a), (b) and (c) above.

- (a) Exemptions in 552(b):

<u>Exemptions invoked</u>	<u>Number of times invoked</u>
No. 2	2
No. 4	17
No. 5	26
No. 6	26
No. 7	8
No. 8	9

Note: The total of the number of times particular exemptions were invoked exceeds the total number of appeals in which, upon review, requests for information were denied since, in some cases, more than one exemption may have been relied upon as authority for denying a request.

- (b) Statute(s) invoked pursuant to Exemption No. 3:

<u>Statutory citation</u>	<u>Number of times invoked</u>
None (0)	None (0)

(c) Other Authority:

<u>Reason</u>	<u>Number of times invoked</u>
Nonpossession of Records	Seven (7)

6. List names and titles or positions of each person who, on appeal, is responsible for the denial in whole or in part of records requested and the number of instances of participation of each:

<u>Name</u>	<u>Title</u>	<u>Number of instances of participation</u>
Thomas A. Schulz	Assistant General Counsel	52

7. Provide a copy of each court opinion or order giving rise to a proceeding under subsection (a)(4)(F); a copy of the Civil Service Commission findings and recommendations on each such proceeding; and a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken.

The Corporation was involved in no litigation giving rise to a proceeding under subsection (a)(4)(F).

8. Provide an up-to-date copy of all rules or regulations issued pursuant to or in implementation of the Freedom of Information Act (5 U.S.C. § 552). (Only amendments need to be filed with reports for calendar years subsequent to the report filed for calendar year 1975).

None (0)

9. Provide separately a copy of the fee schedule adopted and the total dollar amount of fees collected for making records available.

A copy of the Corporation's fee schedule for search and duplication is annexed as Appendix I.

Fees collected during the reporting period for making records available pursuant to the Freedom of Information Act totalled \$40,643.42.

The amount of fees collected during the reporting period for providing publicly available information pursuant to section 309.4 of the Corporation's regulations (12 C.F.R. § 309.4) totalled \$25,161.48.

10. Pursuant to subparagraph (e)(7), furnish as a minimum the following information as indicative of efforts to administer fully this section.

A. Availability of Records. A list of all new categories or segregable portions of records now being released upon request. (See, e.g., Attorney General's Memorandum, February 1975, pp. 14, 16-22).

None (0)

B. Costs. A statement of incremental costs incurred in administering the 1974 amendments to the Act. (See, e.g., Attorney General's Memorandum, February 1975, Appendix III-B, p. 13).

The Corporation incurred approximately \$688,640.00 in incremental costs in administering the Freedom of Information Act during the reporting period. Incremental costs consist primarily of (a) the costs of search, duplication and review which are not charged to the requester if the amount owed is \$10.00 or less, (2) the costs of search, duplication or review (including redaction) which are not charged to the requester pursuant to the fee provisions of the Freedom of Information Act, and (3) other personnel costs relating to the administration of and the processing of requests pursuant to the Freedom of Information Act. For purposes of this report, incremental costs do not include the costs of search, duplication or review which are charged directly to the requester.

C. Compliance with Time Limitation for Appeal Determinations.

Subparagraph (a)(6)(A) provides for an initial determination to be made on any request for records within 10 working days (usually two weeks) of its receipt. In case of an appeal from an initial denial, a determination on the appeal is to be made by the agency within 20 working days (four weeks) after receipt of the appeal. The amendments contain two provisions for extension of the foregoing time limits: (1) an additional 10 days in three types of unusual circumstances, and (2) where authorized by a court. (See the detailed discussion of these provisions appearing in the Attorney General's Memorandum, February 1975, Appendix III-B, pp. 2-7).

(I) Provide the total number of instances in which it was necessary to seek a 10-day extension of time, broken down as follows:

(a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

None (0)

(b) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

None (0)

(c) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

None (0)

(II) Provide the total number of instances where court appeals were taken on the basis of exhaustion of administrative procedures because the agency was unable to comply with the request within the applicable time limits.

One (1)

(III) Provide the total number of instances in which a court allowed additional time upon a showing of exceptional circumstances, together with a copy of each court opinion or order containing such an extension of time.

None (0)

- D. Internal Memoranda. Furnish a copy of all unpublished internal memoranda or instructions setting forth procedures to be followed by agency personnel in administering the Act or defining its coverage, together with a statement indicating whether the memoranda or instructions are publicly available or, if not, the legal basis for non-disclosure of any such document.

Copies of Corporation-wide circulars and Office of the Chairman, Legal Division, Division of Supervision, Division of Depositor and Asset Services (now known as Division of Resolutions and Receiverships), and Office of the Executive Secretary memoranda establishing procedures for processing Freedom of Information Act requests are annexed as Appendix II. Copies of the circulars and the memoranda are publicly available upon request.